## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

WILLIAM ANDREW BRYANT	)
	)
V.	) CIVIL ACTION NO. 07-BE-8010-S
	) CRIMINAL NO. 04-BE-389-S
UNITED STATES OF AMERICA	)

## MEMORANDUM OF OPINION

The magistrate judge filed his findings and recommendation on April 26, 2007, recommending that the motion to vacate be denied. The parties were allowed an opportunity to file objections to the magistrate judge's findings and recommendation. Movant filed objections on May 11, 2007.

Movant does not dispute that he questioned counsel about the applicability of § 3B1.2 even before he entered his guilty plea. On June 28, 2005 he sought inmate legal assistance to determine if § 3B1.2 was applicable to his case. He had access to law books, including the Sentencing Guidelines from June 2005 until November 2005. The Motion to Vacate form clearly states "No citation of authorities need be furnished." The court concludes that movant is not entitled to equitable tolling as he could have timely filed his § 2255 motion had he exercised diligence.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation and Bryant's objections, the court is of the opinion that the magistrate judge's findings are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. Accordingly, movant's objections are OVERRULED and the motion to vacate is DISMISSED as untimely. A Final Judgment will be entered.

Mr. Bryant states in his objection that he also had "personal legal materials" from June 28, 2005 through November 22, 2005. (Doc. #6, affidavit).

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As to the foregoing it is SO ORDERED this the 23rd day of May, 2007.

KARON OWEN BOWDRE

UNITED STATES DISTRICT JUDGE